

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:17-CR-00223-01-DGK
)	
DUSTY MCSPARRAN,)	
)	
Defendant.)	

GRANTING MOTION TO WITHDRAW GUILTY PLEAS

On November 6, 2017, Defendant Dusty McSparran plead guilty to Count One of the Indictment, charging him with a violation of 21 U.S.C. § 841(a) and (b)(1)(C), that is, Possession with Intent to Distribute a Controlled Substance, and Counts Three and Four, charging him with violations of 18 U.S.C. §§ 922(g)(1) and 924(a)(2), that is, being a Felon in Possession of a Firearm/Ammunition. Now before the Court is Defendant’s motion to withdraw his guilty pleas as to Counts Three and Four (Doc. 66).¹

Defendant’s reason for withdrawing his guilty pleas is the Supreme Court’s recent decision in *Rehaif v. United States*, 139 S.Ct. 2191, 2194 (2019), which held that a defendant’s knowledge of his firearm-prohibited status is an element of the offense in a prosecution under 18 U.S.C. § 922(g). The United States does not oppose Defendant’s request (Doc. 69).

The Court agrees that *Rehaif* is an intervening decision that may allow Defendant to withdraw his guilty pleas as to Counts Three and Four. Thus, the motion is GRANTED.

¹ In his original brief, Defendant sought to also withdraw his plea of guilty as to Count One. The Government opposed the withdrawal of his plea as to that count, and he abandoned that argument in his reply brief (Doc. 70) (“Mr. McSparran moves to withdraw his request to withdraw his guilty plea as to Count One. Mr. McSparran wishes to proceed to sentencing on Count One on the currently scheduled setting of July 31, 2019.”). Therefore, the Court addresses only the withdrawal of his guilty pleas as to Counts Three and Four.

Sentencing on Count One will proceed on July 31, 2019. The Probation Office is ORDERED to submit an addendum to the Presentence Investigation Report.

IT IS SO ORDERED.

Date: July 19, 2019

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT